



# Journal of the House

State of Indiana

113th General Assembly

Second Regular Session

Sixth Meeting Day

Thursday Morning

December 4, 2003

The House convened at 10:00 a.m. with the Speaker in the Chair.

The invocation was offered by Reverend Rebecca Suter, First United Methodist Church, Martinsville, the guest of Representative Ralph M. Foley.

The Pledge of Allegiance to the Flag was led by Representative Foley.

The Speaker ordered the roll of the House to be called:

T. Adams	Kromkowski
Aguilera	Kruse
Alderman	Kuzman
Austin	LaPlante ...
Avery	L. Lawson
Ayres	Lehe
Bardon	Leonard
Becker	Liggett
Behning	J. Lutz
Bischoff	Lytle
Borror	Mahern
Bosma	Mangus
Bottorff	Mays
C. Brown	McClain
T. Brown	Messer
Buck	Moses
Budak	Murphy
Buell	Neese
Burton	Noe
Cheney	Orentlicher
Cherry	Oxley
Chowning	Pelath
Cochran	Pflum
Crawford	Pierce
Crooks	Pond
Day	Porter
Denbo	Reske
Dickinson	Richardson
Dobis	Ripley
Duncan	Robertson
Dvorak	Ruppel
Espich	Saunders
Foley	Scholer ...
Frenz	V. Smith
Friend	Stevenson
Frizzell	Stilwell
Fry	Stutzman
GiaQuinta	Summers
Goodin	Thomas
Grubb	Thompson
Gutwein	Torr
Harris	Turner
Hasler	Ulmer ...
Heim	Weinzapfel
Herrell	Welch
Hinkle	Whetstone
Hoffman	Wolkins
Kersey	D. Young ...
Klinker	Yount
Koch	Mr. Speaker

Roll Call 10: 96 present; 4 excused. The Speaker announced a quorum in attendance. [NOTE: ... indicates those who were excused.]

## INTRODUCTION OF BILLS

The following bills were read a first time by title and referred to the respective committees:

**HB 1002** — Bauer (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

**HB 1003** — Chowning, Reske (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

**HB 1004** — Pflum (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

**HB 1005** — Reske, Chowning (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

**HB 1006** — Welch (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

**HB 1007** — Orentlicher (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

**HB 1008** — Lytle (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

**HB 1011** — Koch (Rules and Legislative Procedures)  
A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

**HB 1012** — Kromkowski (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

**HB 1013** — Kromkowski (Commerce and Economic Development)  
A BILL FOR AN ACT to amend the Indiana Code concerning trade regulations; consumer sales and credit.

**HB 1014** — C. Brown, Becker, Welch (Education)  
A BILL FOR AN ACT to amend the Indiana Code concerning education.

**HB 1015** — Fry (Agriculture, Natural Resources and Rural Development)  
A BILL FOR AN ACT concerning natural and cultural resources.

**HB 1016** — Orentlicher, Koch (Human Affairs)  
A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

**HB 1017** — Grubb, Wolkins, Bottorff (Environmental Affairs)  
A BILL FOR AN ACT to amend the Indiana Code concerning environmental law and to make an appropriation.

**HB 1018** — Grubb, Becker, Welch, Budak (Human Affairs)  
A BILL FOR AN ACT to amend the Indiana Code concerning health.

- HB 1019** — Ayres, Lytle, Ruppel, Cheney (Commerce and Economic Development)  
A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.
- HB 1020** — Ayres, Stevenson, Moses (Local Government)  
A BILL FOR AN ACT to amend the Indiana Code concerning local government.
- HB 1021** — C. Brown (Elections and Apportionment)  
A BILL FOR AN ACT to amend the Indiana Code concerning elections.
- HB 1022** — Day (Labor and Employment)  
A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.
- HB 1023** — Day (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1024** — Heim, Frenz, Espich, Austin (Ways and Means)  
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- HB 1025** — Dickinson (Elections and Apportionment)  
A BILL FOR AN ACT to amend the Indiana Code concerning corrections.
- HB 1026** — Dickinson (Commerce and Economic Development)  
A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.
- HB 1027** — Dickinson (Financial Institutions)  
A BILL FOR AN ACT to amend the Indiana Code concerning trade regulations and consumer sales and credit.
- HB 1028** — Dickinson (Appointments and Claims)  
A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.
- HB 1029** — Kuzman, Ayres (Judiciary)  
A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.
- HB 1030** — Pond (Roads and Transportation)  
A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.
- HB 1031** — Pond, Bischoff (Agriculture, Natural Resources and Rural Development)  
A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.
- HB 1032** — Frenz (Technology, Research and Development)  
A BILL FOR AN ACT to amend the Indiana Code concerning the general assembly.
- HB 1033** — C. Brown (Local Government)  
A BILL FOR AN ACT to amend the Indiana Code concerning local government.
- HB 1034** — Harris, C. Brown, Budak (Commerce and Economic Development)  
A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

The House recessed until the fall of the gavel.

## RECESS

The House reconvened at 12:05 p.m. with the Speaker in the Chair.

## ENGROSSED SENATE BILLS ON SECOND READING

### Engrossed Senate Bill 1

Representative Crawford called down Engrossed Senate Bill 1 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 1-8)

Mr. Speaker: I move that Engrossed Senate Bill 1 be amended to read as follows:

Page 58, line 30, after "county" insert ", **excluding business personal and real property,**".

Page 58, line 35, after "property" insert ", **excluding business real property,**".

Page 82, between lines 28 and 29, begin a new paragraph and insert:

"SECTION 50. IC 6-3.1-4-2, AS AMENDED BY P.L.192-2002(ss), SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 2. **(a)** A taxpayer who incurs Indiana qualified research expense in a particular taxable year is entitled to a research expense tax credit for the taxable year.

**(b) A taxpayer who does not have income apportioned to Indiana for a taxable year under IC 6-3-2-2 is entitled to a research expense tax credit for the taxable year in the amount of the product of:**

(1) ~~ten five percent (10%);~~ **(5%);** multiplied by

(2) the remainder of the taxpayer's Indiana qualified research expenses for the taxable year, minus:

(A) the taxpayer's base period Indiana qualified research expenses, for taxable years beginning before January 1, 1990; or

(B) the taxpayer's base amount, for taxable years beginning after December 31, 1989.

**(c) A taxpayer who has income apportioned to Indiana for a taxable year under IC 6-3-2-2 is entitled to a research expense tax credit for the taxable year in the amount of the lesser of:**

**(1) the amount determined under subsection (b); or**

**(2) five percent (5%) multiplied by the remainder of the taxpayer's total qualified research expenses for the taxable year; minus:**

**(A) the taxpayer's base period research expenses, for taxable years beginning before January 1, 1990; or**

**(B) the taxpayer's base amount, for taxable years beginning after December 31, 1989;**

**multiplied by the percentage determined under IC 6-3-2-2 for the apportionment of the taxpayer's income for the taxable year to Indiana.**

SECTION 51. IC 6-3.1-24-5, AS AMENDED BY P.L.214-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 5. As used in this chapter, "taxpayer" means an individual ~~or entity, including a pass through entity,~~ that has any state tax liability.

SECTION 52. IC 6-3.1-26-11, AS ADDED BY P.L.224-2003, SECTION 197, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 11. As used in this chapter, "taxpayer" means an individual ~~a corporation, a partnership, or other entity~~ that has state tax liability."

Page 99, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 61. IC 27-1-18-2, AS AMENDED BY P.L.144-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 2. (a) Every insurance company not organized under the laws of this state, and each domestic company electing to be taxed under this section, and doing business within this state shall, on or before March 1 of each year, report to the department, under the oath of the president and secretary, the gross amount of all premiums received by it on policies of insurance covering risks within this state, or in the case of marine or transportation risks, on policies made, written, or renewed within this state during the twelve (12) month period ending on December 31 of the preceding calendar year. From the amount of gross premiums described in this subsection shall be deducted:

(1) considerations received for reinsurance of risks within this state from companies authorized to transact an insurance business in this state;

(2) the amount of dividends paid or credited to resident insureds, or used to reduce current premiums of resident insureds;

(3) the amount of premiums actually returned to residents on account of applications not accepted or on account of policies not delivered; and

(4) the amount of unearned premiums returned on account of the cancellation of policies covering risks within the state.

(b) A domestic company shall be taxed under this section only in each calendar year with respect to which it files a notice of election. The notice of election shall be filed with the insurance commissioner and the commissioner of the department of state revenue on or before November 30 in each year and shall state that the domestic company elects to submit to the tax imposed by this section with respect to the calendar year commencing January 1 next following the filing of the notice. The exemption from license fees, privilege, or other taxes accorded by this section to insurance companies not organized under the laws of this state and doing business within this state which are taxed under this chapter shall be applicable to each domestic company in each calendar year with respect to which it is taxed under this section. In each calendar year with respect to which a domestic company has not elected to be taxed under this section it shall be taxed without regard to this section.

(c) For the privilege of doing business in this state, every insurance company required to file the report provided in this section shall pay into the treasury of this state an amount equal to **two percent (2%) of the excess, if any, of the gross premiums over the allowable deductions, multiplied by the following rate for the year that the report covers:**

(1) For 2000, two percent (2%);

(2) For 2001, one and nine-tenths percent (1.9%);

(3) For 2002, one and eight-tenths percent (1.8%);

(4) For 2003, one and seven-tenths percent (1.7%);

(5) For 2004, one and five-tenths percent (1.5%);

(6) For 2005 and thereafter, one and three-tenths percent (1.3%);

(d) Payments of the tax imposed by this section shall be made on a quarterly estimated basis. The amounts of the quarterly installments shall be computed on the basis of the total estimated tax liability for the current calendar year and the installments shall be due and payable on or before April 15, June 15, September 15, and December 15, of the current calendar year.

(e) Any balance due shall be paid in the next succeeding calendar year at the time designated for the filing of the annual report with the department.

(f) Any overpayment of the estimated tax during the preceding calendar year shall be allowed as a credit against the liability for the first installment of the current calendar year.

(g) In the event a company subject to taxation under this section fails to make any quarterly payment in an amount equal to at least:

(1) twenty-five percent (25%) of the total tax paid during the preceding calendar year; or

(2) twenty per cent (20%) of the actual tax for the current calendar year;

the company shall be liable, in addition to the amount due, for interest in the amount of one percent (1%) of the amount due and unpaid for each month or part of a month that the amount due, together with interest, remains unpaid. This interest penalty shall be exclusive of and in addition to any other fee, assessment, or charge made by the department.

(h) The taxes under this article shall be in lieu of all license fees or privilege or other tax levied or assessed by this state or by any municipality, county, or other political subdivision of this state. No municipality, county, or other political subdivision of this state shall impose any license fee or privilege or other tax upon any insurance company or any of its agents for the privilege of doing an insurance business therein, except the tax authorized by IC 22-12-6-5. However, the taxes authorized under IC 22-12-6-5 shall be credited against the taxes provided under this chapter. This section shall not be construed to prohibit the levy and collection of state, county, or municipal taxes

upon real and tangible personal property of such company, or to prohibit the levy of any retaliatory tax, fine, penalty, or fee provided by law. However, all insurance companies, foreign or domestic, paying taxes in this state predicated in part on their premium income from policies sold and premiums received in Indiana, shall have the same rights and privileges from further taxation and shall be given the same credits wherever applicable, as those set out for those companies paying only a tax on premiums as set out in this section.

(I) Any insurance company failing or refusing, for more than thirty (30) days, to render an accurate account of its premium receipts as provided in this section and pay the tax due thereon shall be subject to a penalty of one hundred dollars (\$100) for each additional day such report and payment shall be delayed, not to exceed a maximum penalty of ten thousand dollars (\$10,000). The penalty may be ordered by the commissioner after a hearing under IC 4-21.5-3. The commissioner may revoke all authority of such defaulting company to do business within this state, or suspend such authority during the period of such default, in the discretion of the commissioner."

Page 122, between lines 3 and 4, begin a new paragraph and insert: "SECTION 85. [EFFECTIVE JANUARY 1, 2004] **Notwithstanding their repeal by P.L.192-2002(ss), the taxes imposed by the following statutes are reinstated for taxable years beginning after December 31, 2003, and must be administered under the provision of those statutes as they existed before their repeal:**

(1) IC 6-2.1 (gross income tax).

(2) IC 6-3-8 (supplemental net income tax).

SECTION 86. [EFFECTIVE JANUARY 1, 2004] (a) **The legislative services agency, under the direction of the code revision commission, shall prepare legislation for introduction in the 2004 session of the general assembly to make conforming changes to statutes, as needed, to reconcile the statutes with this act.**

(b) **This SECTION expires June 30, 2005.**

SECTION 87. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2004]: IC 6-1.1-12-41; IC 6-1.1-12-42."

Renumber all SECTIONS consecutively.

(Reference is to ESB 1 as printed December 2, 2003.)

FRY

After discussion, Representative Fry withdrew the motion.

There being no further amendments, the bill was ordered engrossed.

## OTHER BUSINESS ON THE SPEAKER'S TABLE

### HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Friday, December 5, 2003 at 9:00 a.m.

KUZMAN

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Austin be added as coauthor of House Bill 1003.

CHOWNING

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Austin be added as coauthor of House Bill 1005.

RESKE

Motion prevailed.

On the motion of Representative Dobis, the House adjourned at 12:50 p.m., this fourth day of December, 2003, until Friday, December 5, 2003, at 9:00 a.m.

B. PATRICK BAUER

Speaker of the House of Representatives

DIANE MASARIU CARTER

Principal Clerk of the House of Representatives